



REPUBLIC OF NAURU

BAIL (AMENDMENT) BILL 2020

No. 30 of 2020

An Act to amend the *Bail Act 2018*.

Certified: 23rd October 2020

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Enacted by the Parliament of Nauru as follows:

1 Short title

This Act may be cited as the *Bail (Amendment) Act 2020*.

2 Commencement

This Act commences on certification by the Speaker.

3 Amendment of the Bail Act 2018

The *Bail Act 2018* is amended by the provisions of this Act.

4 Amendment of Section 3

Section 3(1) is amended by deleting the words '*and includes a Resident Magistrate, Judge or Justice of Appeal*' from the definition of the term '*court*'.

5 Amendment of Section 4

Section 4 is deleted and substituted as follows:

'4 Entitlement to bail

- (1) Subject to the provisions of this Act, every accused person has a right to be released on bail.
- (2) A court may grant bail to an accused person charged with an offence in accordance with the provisions of this Act.
- (3) The presumption in favour of the granting of bail to an accused person under subsection (1) may be rebutted by a prosecutor or any other person, where the interests of justice so requires.'

6 Insert new Section 4A

'4A Bail not to be granted in certain circumstances

A person shall not be granted bail where:

- (a) he or she is charged with an offence:
 - (i) of murder, treason or sedition;
 - (ii) under Part 7, Divisions 7.2 and 7.3 and Part 8 of the *Crimes Act 2016*; or

- (iii) under Part 3 of the *Counter Terrorism and Transnational Crime Act 2004*;
- (b) he or she has previously breached a bail undertaking or condition;
- (c) he or she is arrested under the provisions of the *Extradition Act 1973*; or
- (d) he or she is convicted of one or more of the offences in subsection (1)(a) and is appealing such conviction.'

7 Insert new Section 4B

'4B Bail for certain offences in exceptional circumstances

- (1) Subject to subsection (2), a court shall not grant bail, except in exceptional circumstances:
 - (a) on an application of a person charged with any of the following offences:
 - (i) attempt to murder;
 - (ii) manslaughter;
 - (iii) assaulting a police officer in the execution of the police officer's duties;
 - (iv) intimidating or threatening a police officer in the execution of the police officer's duties; or
 - (v) contempt of court under the *Administration of Justice Act 2018*;
 - (b) where an accused person is incapacitated by intoxication, injury or use of drugs or is otherwise in danger of physical injury, self-harm or in need of protection.
- (2) Subsection (1) shall not apply to an accused person who has been previously convicted by a court for one or more of the offences in subsection (1).
- (3) Where an accused person is remanded in custody under this Section, the court shall direct the parties for an expeditious trial and conduct the hearing of the cause or matter.

- (4) The onus of establishing exceptional circumstances under subsection (1) shall be on the accused person.
- (5) An accused person, who is remanded in custody under this Section, may apply for bail on any grounds or reasons, other than exceptional circumstances under subsection (1), where the trial for the offence he or she is charged with has not commenced within 3 months of the date on which the information or charge was filed in court.
- (6) This Section shall remain in force for 5 years and may be reviewed by the Parliament.'

8 Amendment of Section 13

Section 13 is deleted and substituted as follows:

'13 Power to grant bail

- (1) A Resident Magistrate, Judge or Justice of Appeal respectively, may at any time:
 - (a) grant bail to a person, accused of an offence and brought or appearing before a Resident Magistrate, Judge or Justice of Appeal; or
 - (b) grant bail to a person, who is an appellant under the provisions of the *Supreme Court Act 2018*, the *Nauru Court of Appeal Act 2018* or any other written law.
- (2) The Registrar of the Courts shall only exercise the jurisdiction under this Act, where a Resident Magistrate, Judge or a Justice of Appeal is unable to exercise the powers under subsection (1), to consider an application for bail.'

9 Consequential amendment

The *Administration of Justice Act 2018* is amended by deleting and substituting Section 30(1) as follows:

- '(1) Where a person appears before a court in proceedings for contempt of court under Parts 2 and 3, Section 4B(1)(a)(v) of the *Bail Act 2018* applies.'